ORDINANCE NO. 2018-

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SANTA MARIA, CALIFORNIA, REPEALING SANTA MARIA MUNICIPAL CODE CHAPTER 12-54 AND ADDING CHAPTER 6-12 TO COMPREHENSIVELY REGULATE CANNABIS

The City Council of the City of Santa Maria, State of California, does ordain as follows:

SECTION 1. Chapter 12-54 of the Santa Maria Municipal Code is repealed in its entirety:

~~CHAPTER 12-54 CANNABIS REGULATIONS~~

~~Section 12-54.01. Purpose.~~

~~The purpose of this chapter is to comprehensively regulate cannabis within the City of Santa Maria.~~

~~Section 12-54.02. Definition.~~

~~For purposes of this chapter, the following definition shall apply:~~
~~(a) "Cannabis" and "Medical Marijuana" mean all parts of the plant Cannabis sativa Linnaeus, Cannabis indica, or Cannabis ruderalis, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from marijuana. "Cannabis" also means marijuana as defined by Section 11018 of the Health and Safety Code. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purpose of this ordinance, "cannabis" does not mean "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.~~
~~(b) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis.~~
~~(c) "Cultivation Site" means any facility or location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.~~
~~(d) "Medical marijuana dispensary" means a facility or location, whether fixed or mobile, where medical marijuana is made available for medical purposes in accordance with Health and Safety Code Section 11362.5 et seq.~~

~~Section 12-54.03. Medical marijuana dispensaries prohibited.~~

~~Medical marijuana dispensaries are prohibited in every zone of the City. No person shall operate or permit to be operated a medical marijuana dispensary in or upon any premises in the City.~~

~~Section 12-54.04. Cannabis Cultivation prohibited.~~

~~The Cultivation of Cannabis, whether for private use or commercial sale or distribution, is prohibited in every zone of the City. No person shall operate a Cultivation Site, or otherwise grow or Cultivate Cannabis in or upon any premises in the City.~~

~~Section 12-54.05. Severability.~~

~~If any provision of this Chapter or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Chapter that can be given effect without the invalid provision or application, and to this end the provisions of this Chapter are severable.~~

SECTION 2. Chapter 6-12 of the Santa Maria Municipal Code is hereby added to read as follows:

CHAPTER 6-12 CANNABIS REGULATIONS

Section 6-12.01. Purpose and Intent.

The purpose and intent of this Chapter is to comprehensively regulate cannabis within the City of Santa Maria, as authorized by State law.

Section 6-12.02. Definitions.

For purposes of this Chapter, the following definitions apply:

(a) "Cannabis" and "marijuana" mean all parts of the plant Cannabis sativa L., Cannabis Indica, or Cannabis Ruderalis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. It does not include "industrial hemp" as defined by Section 81000 of the Food and Agricultural Code or Section 11018.5 of the Health and Safety Code.

(b) "Commercial marijuana activity" means the cultivation, harvesting, manufacture, processing, storing, laboratory testing, labeling, transportation, distribution, delivery or sale of marijuana or marijuana products.

(c) "Cultivation" means any activity involving the planting, growing, harvesting, drying, curing, grading, or trimming of cannabis, including the private cultivation of not more than six living marijuana plants when in compliance with the restrictions set forth at Health and Safety Code Section 11362.2(a) and when located within a private residence or inside an accessory structure of a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(d) "Cultivation site" means any facility or location where cannabis is planted, grown, harvested, dried, cured, graded, or trimmed, or that does all or any combination of those activities.

(e) "Delivery" means the commercial transfer of marijuana or marijuana products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed, that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

(f) "Distribution" means the procurement, sale and transport of marijuana and marijuana products between parties to a transaction.

(g) "Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a marijuana product.

(h) "Marijuana accessories" means any equipment, products or materials of any kind which are used, intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing,

analyzing, packaging, repackaging, storing, smoking, vaporizing or containing marijuana, or for ingesting, inhaling or otherwise introducing marijuana or marijuana products into the human body.

(i) "Marijuana dispensary" means a facility or location, whether fixed or mobile, where marijuana or marijuana products are made available for sale, whether for medical purposes or otherwise.

(j) "Marijuana products" means marijuana that has undergone a process whereby the plant material has been transformed into a concentrate, including but not limited to, concentrated cannabis, or an edible or topical product containing marijuana or concentrated cannabis and other ingredients.

(k) "Nursery" means a producer of clones, immature plants, seeds and other agricultural products used specifically for the planting, propagation, and cultivation of marijuana.

(l) "Sell," "sale" and "to sell" include any transaction whereby, for any consideration, title to marijuana is transferred from one person to another, and includes the delivery of marijuana or marijuana products pursuant to an order placed for the purchase of same and soliciting or receiving an order for same.

(m) "Smoke" and "smoking" means to inhale, exhale, burn, or carry any lighted or heated device or pipe, or any other lighted or heated marijuana or marijuana product intended for inhalation, whether natural or synthetic, in any manner or in any form. "Smoke" and "smoking" includes the use of an electronic smoking device that creates an aerosol or vapor, in any manner or in any form, or the use of any oral smoking device for the purpose of circumventing the prohibition of smoking in a place.

(n) "Testing service" means a laboratory, facility or entity that offers or performs tests of marijuana or marijuana products, including the equipment provided by such laboratory, facility or entity.

Section 6-12.03. Marijuana Dispensaries Prohibited.

Marijuana dispensaries are prohibited in the City. No person shall operate or allow to be operated a marijuana dispensary in or upon any premises in the City.

Section 6-12.04. Commercial Marijuana Activity Prohibited.

Commercial marijuana activities are prohibited in the City. No person shall operate or allow to be operated a commercial marijuana activity in or upon any premises in the City.

Section 6-12.05. Cultivation Prohibited.

Cultivation of marijuana is prohibited in the City, except for cultivation of up to six (6) living plants for personal use as otherwise permitted by California Health and Safety Code Section 11362(a)(3) and when located within a private residence or inside an accessory structure of a private residence located upon the grounds of a private residence that is fully enclosed and secure on the grounds of a private residence. Outdoor cultivation of marijuana for person use on the grounds of a private residence (e.g., in a garden area) is prohibited. No person shall operate or allow to be operated a cultivation site or nursery in or upon any premises in the City.

Section 6-12.06. Delivery Restricted.

Delivery of marijuana or marijuana products is limited to the delivery for medical purposes to a qualified patient or primary caregiver pursuant to Health and Safety Code Section 11362.5 from dispensaries located outside of the City.

Section 6-12.07. Distribution Prohibited.

The distribution of marijuana or marijuana products is prohibited in the City. Except for deliveries pursuant to Section 6-12.06, no person shall conduct or allow to be conducted an operation in or upon any premises in the City.

Section 6-12.08. Manufacture Prohibited.

The manufacture of marijuana or marijuana products is prohibited in the City. No person shall manufacture or allow the manufacturing of marijuana or marijuana products in or upon any premises in the City.

Section 6-12.09. Testing Services Prohibited.

The provision of testing services of marijuana or marijuana products is prohibited in the City. No person shall operate or allow testing services of marijuana or marijuana products in or upon any premises in the City.

Section 6-12.10. Smoking Prohibited.

Smoking marijuana and ingesting marijuana products are subject to the regulations contained in Chapter 5-7 of this Code and California Health and Safety Code Section 11362.3.

Section 6-12.11. Public Nuisance.

(a) The operation of a marijuana dispensary, commercial marijuana activities, cultivation sites and nurseries, distribution, provision of testing services, and manufacturing of marijuana and marijuana products from any property, structure or building in the City is declared to be a public nuisance.

(b) In addition to the penalties provided in Section 6-12.14, any violation of this Chapter shall constitute a public nuisance and may be abated by the City by administrative process, or by civil restraining order, preliminary or permanent injunction, or in any manner provided by law for the abatement of a nuisance. All remedies herein are cumulative and non-exclusive.

(c) Any person, including the City, who prevails in an action or proceeding for the abatement of a public nuisance as provided herein shall be entitled to recover attorney's fees and costs incurred in any such action or proceeding.

Section 6-12.12. Confiscation of Marijuana and Marijuana Products.

Any peace officer who issues a criminal citation under this Chapter shall confiscate any marijuana or marijuana products and store them according to law, pending the conclusion of the criminal case.

Section 6-12.13. Suspension or Revocation of Business License.

No person or business holding a City business license and owning or operating a business in the City may use that business to operate a marijuana dispensary, conduct commercial marijuana activities, operate a cultivation site or nursery, distribute (except as provided in Section 6-12.06), provide testing services or manufacture of marijuana and marijuana products. A violation of this Chapter shall constitute grounds for suspension or revocation of a business license in accordance with the procedures set forth in Chapter 4-1 of this Code.

Section 6-12.14. Penalties.

(a) Failure to comply with this Chapter is a misdemeanor punishable by imprisonment in the County Jail for a period not exceeding six (6) months, or by fine not exceeding $1,000.00, or by both,

provided that where the City Attorney determines that such action would be in the interest of justice, he/she may specify in the accusatory pleading that the offense is an infraction.

(b) Each person committing, causing, or maintaining a violation of this Chapter, or failing to comply with the requirements set forth herein shall be deemed guilty of a separate offense for each and every day during any portion of which any violation of any provision of this Chapter is committed, continued, maintained, or permitted by such person and shall be punishable accordingly.

Section 6-12.15. Exclusions.

(a) Nothing in this Chapter is intended to prohibit individuals from cultivating not more than six (6) living marijuana plants and possessing the marijuana produced by the plants when in compliance with the restrictions set forth at Health and Safety Code Section 11362.2(a) and when located within a private residence or inside an accessory structure of a private residence located upon the grounds of a private residence that is fully enclosed and secure.

(b) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, process, transport, purchase, obtain, or give away to persons 21 years of age or older without compensation, not more than 28.5 grams of marijuana and not in the form of concentrated cannabis, as set forth at Health and Safety Code Section 11362.1(a)(1).

(c) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, process, transport, purchase, obtain or give away to persons 21 years of age or older without any compensation, not more than eight (8) grams of marijuana in the form of concentrated cannabis, including as contained in marijuana products, as set forth at Health & Safety Code Section 11362.1(a)(2).

(d) Nothing in this Chapter is intended to prohibit individuals 21 years of age or older to possess, transport, purchase, obtain, use, manufacture, or give away marijuana accessories to persons 21 years of age or older without compensation, as set forth at Health and Safety Code Section 11362.1(a)(5).

(e) Marijuana and marijuana products involved in any way with conduct deemed lawful by this Section are not contraband and not subject to seizure. No conduct deemed lawful by this Section shall constitute the basis for detention, search or arrest.

Section 6-12.16. Severability.

If any section, subsection, sentence, clause or phrase of this Chapter is held to be invalid or unconstitutional by a decision of a court of competent jurisdiction or preempted by State or Federal legislation, such decision or legislation shall not affect the validity of the remaining provisions of this Chapter.

SECTION 3. This Ordinance has been reviewed for compliance with the California Environmental Quality Act (CEQA), and the CEQA guidelines, and the City's environmental procedures, and has been found to be exempt pursuant to § 15601(b)(3) (general rule) of the CEQA Guidelines, because the City Council hereby finds with certainty that there is no possibility the passage of this Ordinance will have a significant effect on the environment.

SECTION 4. This Ordinance shall be in full force and effect thirty (30) days after its passage. Within fifteen (15) days following its passage, the City Clerk shall cause this Ordinance to be published in a newspaper of general circulation in accordance with State Law; or when deemed necessary due to the length or complexity of the Ordinance, cause a summary of the Ordinance to be prepared and published at least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted. If a summary is published at

least five (5) days prior to the City Council meeting at which the proposed Ordinance is to be adopted, then within fifteen (15) days after adoption of the Ordinance the City Clerk shall publish a summary of the Ordinance with the names of those City Council Members voting for and against the Ordinance and shall post a certified copy of the full text of such adopted Ordinance along with the names of those City Council Members voting for and against the Ordinance.

SECTION 5. The Chief Deputy City Clerk is hereby authorized to make minor changes herein to address clerical errors, so long as substantial conformance of the intent of this document is maintained. In doing so, the Chief Deputy City Clerk shall consult with the City Manager and City Attorney concerning any changes deemed necessary.

INTRODUCED at a regular meeting of the City Council held this 20th day of February 2018, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAINED:

Alice M. Patino
Mayor

ATTEST:

Rhonda M. Garietz, CMC
Chief Deputy City Clerk

APPROVED AS TO FORM:
Philip F. Sinco
City Attorney

APPROVED AS TO CONTENT:
Department Head

City Manager